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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,024	04/26/2001	Barry Appelman	06975-128001	6929
26171	7590	10/13/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			HARRELL, ROBERT B	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/842,024

Applicant(s)

APPELMAN ET AL.

Examiner

Robert B. Harrell

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006 et seq.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11 and 15-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,4-11 and 15-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 12 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20060809.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☒ Other: See attached Office Action.

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1. Claims 1, 2, 4-11, and 15-20 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The claims are more directed to:

**TARGETED GEOGRAPHICAL CONDITION NOTIFICATION TO A USER OF A
COMUNICATION SYSTEM BASED ON A GEOGRAPHIC LOCATION OF THE USER**

3. The applicant should always use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks TM, and other legal symbols [®], where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for “the” and “said” within each claim [*i.e., claim 1 (“the one or more online users” on line 4 per lines 2 and 3 “online users”*)]). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

5. Claims 1, 2, 4-11, and 15-20 are rejected under 35 U.S.C. 102 (e) as being anticipated by Burfeind et al. (United States Patent Number: US 6,360,172 B1).

6. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant’s attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited*

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and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

7. The rejection, and grounds for rejection, under 35 U.S.C. 102(e) as presented in examiner's prior Office Action mailed 27 January 2006, are hereby maintained and incorporated in this Office Action by reference.

8. The applicant argued in his 30 May 2006 response by stating in substance that:

a) Burfeind fails to describe or suggest at least "targeting rules designating at least a target geographic location and at least one of a target type of access device or a target type of software and applying the targeting rules to the context information to identify a subset of the one or more online users that are associated with the target geographic location and who employ at least one of the target type of access device or the target type of software," as recited in claim 1 and similarly recited in claims 15 and 19. However, as covered in examiner's prior Office Action and herein, target rules (filters) and context information were each a combination of geographic location and at least a type of access device or type of software (see col. 2 (line 3-et seq.) and also col. 7 (line 57 "the output device of the subscriber(s)") and col. 10 (lines 19 and 44-et seq.)). Burfeind's Abstract clearly taught "geographic locations" of the user as well as "modes of delivery" with was a type of software. Since the claims recite "or", location and software reaches the defined claimed invention. Yet, Burfeind also taught type of device as well by teaching "delivery of the personalized natural-phenomenological information can be through any number of a variety of output mediums, including pagers, text to voice synthesizers to create an audio stream for playback either via a telephone or a personal digital assistant (PDA), a multimedia-enabled computer, email, computer display monitors, PDA, and a PCS phone" and thus all three, location, device, software, were taught by Burfeind. Thus, based on Burfeind's disclosure, all users (a subset) were identified by and in a specific location that used a "PDA" got a PDA type Weather Reports for their/that location while all users were identified in a specific location (same location or different location) using telephones got a telephone type Weather Report for their location. Thus Weather Reports were targeted for location, device, and software specific to each one ore more users in a subset of users as identified by their location, the device, and their software. That is, text based formatted Weather Reports for California users were not sent to non-display type telephones in Virginia. Hence, location (Miami), device type (personal computer), and software (browser) "identifies" one or more in Miami having a personal computer running a browser. While not claimed, nor disclosed, software was known to have serial numbers, thus entering such serial numbers along with software type would identify a specific single user as did telephone numbers and street addresses;

b) Burfeind relates to a system for "generation and distribution of personalized multimedia natural-phenomenological information." Burfeind describes that the prior art systems distribute to consumers "natural-phenomenological information regardless of the particular needs of the consumers." Col. 2, lines 18-20. However, this is his "Background". As clearly recited in the Abstract and in the remaining portions of his disclosure, the reports are user specific (i.e., sailors at sea don't want golf weather nor mountain climbing weather but sea weather (tides and wave heights) reported in a format that their device will understand (no PDA for a Radio));

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c) Burfeind states the multimedia device interface enables routing the personalized natural-phenomenological information to different devices such as, telephone, voicemail systems, pagers, and email. Col 10, line 53 - col. 11, line 16 (stating if the subscriber's output device includes a voicemail output device, "the multimedia device interface generates and add English words to the output text"). However, Burfeind covers the whole World and thus not logical to send English ASCII video text to non-display type telephone Swedish users of Stockholm even if many speak English since non-display type phones normally do not display text and the customary language is Swedish. Thus, Burfeind can identify Swedish users in Stockholm using non-display type telephone to obtain their local weather reports customized just for their devices and preference(s).


9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew T. Caldwell, can be reached on (571) 272-3868. The fax phone number for all papers is (703) 872-9306.

14. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.


ROBERT B. HARRELL
PRIMARY EXAMINER
GROUP 2142